

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES SEXTON,

Defendant.

ORDER

16-cv-762-bbc

14-cr-86-bbc

On November 17, 2016, defendant James Sexton filed a motion for post conviction relief under 28 U.S.C. § 2255. In an order entered on November 22, 2016, I denied the motion as untimely. Defendant had been sentenced in this court on August 20, 2015. His judgment and commitment were entered on the docket on August 21, 2015; his conviction became final 14 days later when he failed to file an appeal. His deadline for filing a post conviction motion was September 4, 2016. His motion was not filed until November 15, 2016.

Now defendant has filed a motion for reconsideration of the court's November 22, 2016 order denying his motion as untimely. He challenges the court's calculation of his filing deadline, asserting that his conviction became final and the one-year limitation period

began to run when the 90-day time period expired for filing a petition for certiorari contesting the appellate court's affirmation of the conviction. However, the record shows that defendant did not file a direct appeal or a petition for writ of certiorari so his conviction became 14 days after August 21, 2015, when the time for him to file a direct appeal expired. Nothing in defendant's motion for reconsideration convinces me that it was error to deny his motion as untimely.

ORDER

IT IS ORDERED that defendant James Sexton's motion for reconsideration is DENIED.

Entered this 9th day of January, 2017.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge